

CRIMINAL PROCEDURE AMENDMENT

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott L Wyatt

Senate Sponsor: David L. Thomas

LONG TITLE

General Description:

This bill amends the Code of Criminal Procedure regarding the scope of appeals that may be made by the prosecution.

Highlighted Provisions:

This bill:

- ▶ allows the prosecution to appeal from a court's pretrial order dismissing a misdemeanor charge on specified grounds, so that the appeal authority is the same as is currently provided regarding felonies.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-18a-1, as last amended by Chapter 106, Laws of Utah 2005

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **77-18a-1** is amended to read:

77-18a-1. Appeals -- When proper.

(1) A defendant may, as a matter of right, appeal from:

(a) a final judgment of conviction, whether by verdict or plea;

(b) an order made after judgment that affects the substantial rights of the defendant;

(c) an order adjudicating the defendant's competency to proceed further in a pending prosecution; or

(d) an order denying bail, as provided in Subsection 77-20-1(7).

(2) In addition to any appeal permitted by Subsection (1), a defendant may seek discretionary appellate review of any interlocutory order.

(3) The prosecution may, as a matter of right, appeal from:

(a) a final judgment of dismissal, including a dismissal of a felony information following a refusal to bind the defendant over for trial;

(b) a pretrial order dismissing a ~~felony~~ charge on the ground that the court's suppression of evidence has substantially impaired the prosecution's case;

(c) an order granting a motion to withdraw a plea of guilty or no contest;

(d) an order arresting judgment or granting a motion for merger;

(e) an order terminating the prosecution because of a finding of double jeopardy or denial of a speedy trial;

(f) an order holding a statute or any part of it invalid;

(g) an order adjudicating the defendant's competency to proceed further in a pending prosecution;

(h) an order finding, pursuant to Title 77, Chapter 19, Part 2, Competency for Execution, that an inmate sentenced to death is incompetent to be executed;

(i) an order reducing the degree of offense pursuant to Section 76-3-402; or

(j) an illegal sentence.

(4) In addition to any appeal permitted by Subsection (3), the prosecution may seek discretionary appellate review of any interlocutory order entered before jeopardy attaches.